

Appl. No. 10/050,801

Reply to Office Action of July 19, 2005

REMARKS/ARGUMENTS

Claims 1-10, 12-14, 22, and 24-25 are presented for Examiner's consideration. Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the following remarks is respectfully requested.

Claims 1-10, 12-14, 22, 24, and 25 stand rejected under 35 U.S.C. § 112, second paragraph as indefinite. In response, the Applicants have amended the independent claims and respective dependent claims to clarify that the first, second, and third visibility indexes have three components – Total Transmittance, Clarity, and Haze. These parameters are quantitatively determined by a machine using the test method on page 6, lines 3–17 of the specification. In contrast, the Visibility Indication is qualitatively determined by a human observer as discussed on page 8, lines 16-26. Since the two parameters represent two different measurements, they are not the same as asserted by the Examiner. As such, the ranges for the visibility indexes can be larger and/or different than the recited range for the Visibility Indication. As such, the Examiner's rejection has been overcome by the amendments and the above discussion.

Claims 1-10, 12-14, 22, and 24-25 stand rejected under 35 U.S.C. §103(a) as obvious over *Julius* (5,542,567) in view of *Spruyt* et al. (3,784,056) and *Huang* et al. (6,269,970). *Julius* discloses a moist tissue package for dispensing wet wipes in a pop-up manner. However, *Julius* fails to disclose a translucent container top. *Spruyt* discloses a moisture impermeable package for wet wipes that has a transparent closure. However, *Spruyt* fails to disclose a translucent container top. *Huang* discloses a wet wipes container. *Huang* discloses that the container lid can be transparent or translucent.

The Applicants claim a container top that is between the extremes of completely transparent (Visibility Indication = 5) and completely opaque (Visibility Indication = 0) by claiming that the container top has a Visibility Indication of at least 1 and no more than 4. See the specification at page 8, lines 23-26, and claims 1 and 22. As such, the combination of *Julius* and *Spruyt* fails to render the Applicants' claims obvious since to establish a *prima facie* case of obvious under MPEP § 2142 the references, when combined, must teach or suggest all the claimed limitations.

There is no teaching or suggestion in *Spruyt* to use a translucent container top as claimed. As such, *Spruyt* does not add anything to the Examiner's rejection since use of a transparent container top will always enable the wet wipes to be observed beneath the container top. The Applicants' invention is concerned with selecting the visibility indexes to enable the wet wipes to be observed through a translucent container top as claimed. This is not as straight forward as the Examiner appears to maintain based on the most recent Office Action. The declaration of Yung

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Hsiang Huang clearly establishes that by simply selecting a translucent container top, the wet wipes are not always visible. Other factors need to be taken into account besides whether or not the container top is translucent. The Examiner has put forth no evidence to refute facts in Huang's declaration.

With regard to the combination of *Julius* and *Huang*, the declaration of Yung Hsiang Huang establishes that the use of a translucent container top, in and of itself, is not sufficient to guarantee that the wet wipe will be visible beneath the translucent container top. In particular, the specific visibility index values for the total transmittance, haze, and clarity of the pop-up style dispensing partition plays a significant role in whether the wet wipes will be visible or not. In the declaration of Yung Hsiang Huang, the only difference between Example 12 and 16 was the visibility index of the pop-up style dispensing partition. In one example the wet wipes were visible, and in the other example they were not.

The Applicants find no teaching or suggestion in any of the cited references, either individually or together, that discuss how to select an appropriate visibility index for the pop-up style dispensing partition for use with a translucent container top. *Spruyt* and *Huang* only disclose information about the container top, and the dispensers disclosed in these references do not have a dispensing partition. As such, it is much easier to observe the wet wipe since the entire stack is visible in the container through the container top. *Julius* does not give any information as to how to select the visibility index for the dispensing partition since he does not teach anything concerning viewing the wet wipe without opening the container top. Only the Applicants' specification solves the problem of being able to see the small exposed portion of a wet wipe through a translucent container top against a dispensing partition.

With regard to claims 2-10, 12-13, and 24-25, the Applicants' specification at page 12, line 5 to page 13, line 7 further claims the desired relationships between the various visibility indexes and, in particular, the relationship of the dispensing partition's visibility index to enhance the ability to see the wet wipe positioned beneath the translucent container top. As shown in the declaration, the Applicants have solved the unexpected problem that the use of a translucent container top, in and of itself, does not guarantee that the wet wipe will be visible beneath the container top without also considering the visibility indexes of the wet wipe and the dispensing partition.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in a condition for allowance. Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. The undersigned may be reached at: (920) 721-7760.

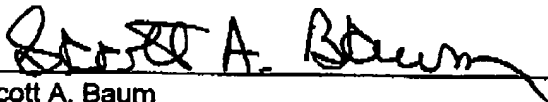
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Respectfully submitted,

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